

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

8 \* \* \*

9 JOHN B. ODOMS,

Case No. 3:13-cv-00529-MMD-WGC

10 v. Petitioner,

ORDER

11 WARDEN I. BACA, *et al.*,

12 Respondents.

13  
14 This closed action is a *pro se* petition for a writ of habeas corpus filed pursuant to  
15 28 U.S.C. § 2254, by a Nevada state prisoner. On September 26, 2013, the Court  
16 dismissed the petition as an unauthorized successive petition. (Dkt. no. 3.) Judgment  
17 was entered that same date. (Dkt. no. 5.)

18 Petitioner then filed a motion to proceed *in forma pauperis*, a motion for the  
19 appointment of counsel, and a motion to authorize a successive petition. (Dkt. nos. 6, 7,  
20 8.) By order filed March 3, 2014, this Court denied all three motions. (Dkt. no. 9.)

21 Petitioner filed a notice of appeal on March 10, 2014. (Dkt. no. 10.) On March 12,  
22 2013, petitioner filed a motion for a certificate of appealability. (Dkt. no. 12.) In order to  
23 proceed with his appeal, petitioner must receive a certificate of appealability. 28 U.S.C.  
24 § 2253(c)(1); Fed. R. App. P. 22; 9<sup>th</sup> Cir. R. 22-1; *Allen v. Ornoski*, 435 F.3d 946, 950-  
25 951 (9<sup>th</sup> Cir. 2006); see also *United States v. Mikels*, 236 F.3d 550, 551-52 (9th Cir.  
26 2001). Generally, a petitioner must make "a substantial showing of the denial of a  
27 constitutional right" to warrant a certificate of appealability. *Id.*; 28 U.S.C. § 2253(c)(2);  
28 *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). "The petitioner must demonstrate that

1 reasonable jurists would find the district court's assessment of the constitutional claims  
2 debatable or wrong." *Id.* (quoting *Slack*, 529 U.S. at 484). In order to meet this threshold  
3 inquiry, the petitioner has the burden of demonstrating that the issues are debatable  
4 among jurists of reason; that a court could resolve the issues differently; or that the  
5 questions are adequate to deserve encouragement to proceed further. *Id.* The Court  
6 has considered petitioner's motion for a certificate of appealability. The Court concludes  
7 that no reasonable jurist could conclude that this Court's orders of September 26, 2013,  
8 and March 3, 2014, were in error. Petitioner is not entitled to a certificate of  
9 appealability.

10 It is therefore ordered that petitioner's motion for a certificate of appealability (dkt.  
11 no. 12) is denied.

12 DATED THIS 30<sup>th</sup> day of April 2014.



13  
14 MIRANDA M. DU  
15 UNITED STATES DISTRICT JUDGE  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28